



REGULATORY AGENCY ACTION

fuel system that could affect emission performance may be adjusted by the system installer or the vehicle user. The applicable emission standards for retrofitted vehicles would be the same as those required for new vehicles of the same model year using the same fuel(s).

The draft regulations set a three-year or 50,000-mile warranty requirement on both manufacturers and installers of retrofit systems. Manufacturers would also be required to provide a seven-year or 70,000-mile warranty on those retrofit system parts costing more than \$300 to replace. The proposed procedures would require retrofit system installers to submit a converted vehicle to Bureau of Automotive Repair Smog Check referee stations for inspection and testing prior to releasing the vehicle to the consumer. Retrofit system manufacturers would be required to demonstrate in-use compliance of their systems as installed. Retrofit systems failing to meet in-use standards would be subject to recall action. The proposed procedures would apply to all alternative fuel retrofit systems designed for installation on gasoline- or diesel-fueled light-, medium-, and heavy-duty motor vehicles certified for sale in California for 1993 and subsequent model years.

ARB has determined that many manufacturers should reevaluate their systems for controlling the sale of California emissions (tune-up) labels. A recent ARB survey revealed that many dealerships are willing to sell California emissions labels over-the-counter without verifying whether the label is legally being installed on a California-certified vehicle. To ensure that adequate procedures are in place, ARB has requested each manufacturer of California-certified vehicles to submit documentation of the procedures it has established to prevent the unauthorized sale of California emissions labels. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 87 for background information.)

FUTURE MEETINGS:

January 9 in Sacramento.

CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

Executive Director: Ralph E. Chandler
Chair: Michael Frost
(916) 255-2200

The California Integrated Waste Management and Recycling Board (CIWMB) was created by AB 939 (Sher) (Chapter 1095, Statutes of 1989), the

California Integrated Waste Management Act of 1989. The Act is codified in Public Resources Code (PRC) section 40000 *et seq.* AB 939 repealed SB 5, thus abolishing CIWMB's predecessor, the California Waste Management Board (CWMB). (See CRLR Vol. 9, No. 4 (Fall 1989) pp. 110-11 for extensive background information.)

CIWMB reviews and issues permits for landfill disposal sites and oversees the operation of all existing landfill disposal sites. The Board is authorized to require counties and cities to prepare Countywide Integrated Waste Management Plans (CoIWMPs), upon which the Board will review, permit, inspect, and regulate solid waste handling and disposal facilities. A CoIWMP submitted by a local government must outline the means by which its locality will meet AB 939's requirements of a 25% waste stream reduction by 1995 and a 50% waste stream reduction by 2000. Under AB 939, the primary components of waste stream reduction are recycling, source reduction, and composting.

The statutory duties of CIWMB also include conducting studies regarding new or improved methods of solid waste management, implementing public awareness programs, and rendering technical assistance to state and local agencies in planning and operating solid waste programs. Additionally, CIWMB staff is responsible for inspecting solid waste facilities such as landfills and transfer stations, and reporting its findings to the Board. The Board is authorized to adopt implementing regulations, which are codified in Division 7, Title 14 of the California Code of Regulations (CCR).

The new CIWMB is composed of six full-time salaried members: one member who has private sector experience in the solid waste industry (appointed by the Governor); one member who has served as an elected or appointed official of a nonprofit environmental protection organization whose principal purpose is to promote recycling and the protection of air and water quality (appointed by the Governor); two public members appointed by the Governor; one public member appointed by the Senate Rules Committee; and one public member appointed by the Speaker of the Assembly.

The Board has begun its work under the new enabling statute, along with a variety of recently-enacted bills and many new regulations. The Board is operating on a \$58 million budget during fiscal year 1991-92, and will employ a staff of approximately 250 in meeting the solid waste management

needs of the state. The Board expects to employ up to 70 additional personnel after it completes the move to its new office this winter.

On August 8, Governor Wilson appointed Paul Relis to fill the Board position reserved for a representative of environmental protection groups. Relis is a founder and president of the Community Environmental Council in Santa Barbara, a nonprofit environmental education organization. He was also a member of the 1989 Senate Task Force on Solid and Hazardous Waste which recommended adoption of the integrated waste management hierarchy of source reduction, recycling, and composting, and a major restructuring of the Board. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 111 for background information.) Relis has advised federal, state, and local agencies, including the U.S. Environmental Protection Agency, the congressional Office of Technology Assessment, and CIWMB's predecessor, the California Waste Management Board.

MAJOR PROJECTS:

Governor's Cal-EPA Plan Approved. Governor Wilson's proposal to create the California Environmental Protection Agency (Cal-EPA) took effect on July 17. CIWMB, the Air Resources Board, and the state Water Resources Control Board, among others, are now incorporated within Cal-EPA. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 159-60 for background information.)

Board Adopts Emergency Diversion/Planning Requirement Regulation. PRC section 41782 allows CIWMB to establish alternative but less comprehensive planning requirements and reduced diversion goals for those cities and counties for which it is not feasible to meet AB 939's mandated diversion and planning requirements due to population density, small geographic size, and/or the small quantity of waste generated. On July 29, OAL approved CIWMB's emergency adoption of section 18775, Title 14 of the CCR, concerning reductions in diversion requirements. Pursuant to section 18775, eligible cities must consist of less than three square miles or have a population density of less than 1,500 people per square miles, and have a waste generation rate of less than 100 cubic yards (or 60 tons) per day. Eligible unincorporated areas of a county must consist of geographic areas of 1,500 square miles or less or have a population density of less than ten people per square mile, and a waste generation rate of less than 100 cubic yards (60 tons) per day. CIWMB



had 120 days from the date of OAL's approval to formally adopt section 18775.

Architect-Engineer Contract Regulations. Government Code section 4525 *et seq.* requires CIWMB to adopt regulations regarding the procurement of architectural, engineering, environmental, land surveying, and construction project management services. On August 1, OAL approved CIWMB's emergency adoption of sections 17020-17029, Article 2, Title 14 of the CCR, regarding the contracting of such services. On August 2, CIWMB proposed to formally adopt these regulations, and held a public hearing on September 18 to receive testimony on the proposals. Responding to comments received, staff revised the original language of the regulations, and released the modified text for a 15-day public comment period, which was scheduled to close on October 8.

Among other things, the modified version of the proposed regulations describes the process regarding the Board's publication of its Request for Qualifications; sets forth selection criteria which the Board must follow in selecting firms with which to contract; states the process to be followed in negotiating contracts and emergency contracts; and specifies certain types of unlawful activities and conflicts of interest which are prohibited.

CIWMB was scheduled to consider the permanent adoption of these modified regulations at its October 30 meeting.

HHW Regulations Update. The Board's Administration Committee, which was originally authorized to oversee the adoption of regulations to guide local governments in preparing the household hazardous waste (HHW) element of their CoIWMPs, was scheduled to conduct a July 11 public hearing to receive comments on CIWMB's proposed adoption of sections 18750-18751.88, Article 6.3, and sections 18762-18775, Article 7, Title 14 of the CCR, establishing HHW regulations. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 160 and Vol. 11, No. 2 (Spring 1991) p. 146 for background information.) The Administration Committee postponed that public hearing until August 6. Following staff's review of comments received at the hearing and during the 45-day public comment period, the Committee revised the regulations, circulated the modified text for a 15-day public comment period which ended on September 4, and transferred responsibility for the regulatory development process to CIWMB's Planning Committee.

The proposed regulations implement AB 2707 (LaFollette) (Chapter 1406, Statutes of 1990), legislation mandating CIWMB to adopt regulations to assist local jurisdictions in preparing a required HHW element in their CoIWMPs. The HHW element must identify programs for the safe collection, recycling, treatment, and disposal of hazardous wastes generated by households. In addition, the proposed regulations address the diversion of HHW, funding for preparing and implementing the HHW element, and public HHW education. The Planning Committee was expected to approve the regulations at its October 8 meeting. Thereafter, the Board was expected to consider the formal adoption of the regulations at its October 30 meeting.

Recycling Investment Tax Credit Regulations Update. During its June 26 meeting, CIWMB formally adopted sections 17940 and 17941, Article 1, Title 14 of the CCR, pertaining to the Recycling Investment Tax Credit program. The regulations implement Revenue and Taxation Code sections 17052.14 and 23612.5, which allow for a 40% tax credit for specific machinery or equipment which exclusively manufactures a marketable finished product composed of postconsumer and secondary waste. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 160 for background information.) Following a June 6 public hearing conducted by CIWMB's Administration Committee, the proposed regulations were revised to extend the 40% tax credit to manufacturing equipment which uses 100% secondary waste, including at least 80% postconsumer waste, in lieu of any comparable or substitutable virgin material.

The Office of Administrative Law (OAL) approved these regulations on September 9. Although the rules did not go into effect until October 9, in late September the Board began accepting applications for certifications designating equipment as qualified property.

Local Enforcement Agency Regulations Update. On July 8, CIWMB held a public hearing on its proposed amendments to sections 18010-18070, Articles 1 and 2, Title 14 of the CCR, and its adoption of new sections 18070-18084, Articles 2.1 and 2.2, Title 14 of the CCR, regarding certification criteria for local enforcement agencies (LEAs). In response to public comments, CIWMB modified the proposed regulatory package and released the modified text for a 15-day public comment period which ended on July 25. CIWMB formally adopted the proposed regulatory action at its July 31 meeting, one day before

PRC section 43200's mandated deadline of August 1. The proposed regulations set forth the four types of LEA certification which CIWMB will issue; describe the procedure for applying for LEA certification; state minimum components of an LEA's enforcement program plan; and prescribe LEA performance standards, evaluation criteria, duties, and responsibilities. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 160-61 for background information.)

On September 30, OAL disapproved the regulatory proposals, stating that the final statement of reasons did not contain an adequate summary of and response to public comment. OAL noted that satisfaction of the response requirement mandated by Government Code section 11346.7 demonstrates that the agency read the comments and considered them; legitimizes the rulemaking process in the eyes of affected persons; and provides a better administrative record of the proceedings by focusing attention on issues of importance to the interested public. OAL's disapproval pointed out four separate comments which did not receive a meaningful response addressing the concerns of the commenters. CIWMB has 120 days in which to correct these deficiencies and resubmit the rulemaking package to OAL.

Financial Responsibility Regulations. PRC section 43040 requires CIWMB to adopt standards and regulations requiring that, as a condition for the issuance, modification, revision, or review of a solid waste facilities permit for a disposal facility, the operator of the disposal facility must provide assurance of adequate financial ability to respond to personal injury claims and public or private property damage claims resulting from the operations of the facility which occur before closure. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 160 and Vol. 11, No. 2 (Spring 1991) p. 146 for background information.) On June 14, CIWMB's Permitting and Enforcement Committee held a public hearing on the Board's proposed addition of new sections 18230-18244, Title 14 of the CCR, which would implement section 43040 by describing the acceptable financial mechanisms available for use by facility operators. Responding to public comments, staff modified the proposed sections and released the revised text for an additional 15-day public comment period which ended on July 8. On July 9, the Permitting and Enforcement Committee instructed staff to contact the Department of Insurance regarding the proposed requirements, and to make amendments as necessary to satisfy



concerns of the public. On September 18, the Committee released the re-revised text for an additional 15-day public comment period, which ended on October 4. CIWMB was scheduled to consider the adoption of the regulatory proposal at its October 30 meeting.

Recycling Market Development Zone Regulations. On June 6, CIWMB's Administration Committee held a public hearing on the Board's proposal to adopt sections 17900-17919, Article 1, Title 14 of the CCR, regarding the Recycling Market Development Zone designation process. According to CIWMB, recycling market development zones may be created to stimulate the use of postconsumer waste materials as the feedstock in manufacturing processes by private business, industry, and commerce. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 160 for background information.)

Among other things, the regulations describe the Recycling Market Development Zone designation cycle; specify the deadline for submitting applications; and state the statewide program objectives. On June 26, CIWMB adopted the proposed regulations; OAL approved the regulatory package on September 9.

Recycled-Content Newsprint Regulations. CIWMB's proposed new sections 17950-17968, Article 1, Title 14 of the CCR, regarding the certification of recycled-content newsprint use, would define terms and establish reporting requirements and certification procedures for newsprint suppliers and consumers. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 161 for background information.) On July 10, CIWMB held a public hearing on the proposed regulations. Staff modified the proposed text and released the revised version for an additional 15-day public comment period which ended on September 11. Staff decided to make further revisions to the language, and re-released the text for a second 15-day public comment period, which was scheduled to end on October 9. If no further changes are made, the proposed regulations were scheduled to be considered by the Board at its October 30 meeting.

Board Creates New Committee. At its September 25 meeting, the Board established a Market Development Committee, which will work on developing markets for recycled materials. This committee will include Board members Wes Chesbro, Jesse Huff, and Paul Relis.

Workshops. Each county supervises a local task force (LTF) which helps implement its ColWMP by reviewing the source reduction and recycling

(SRR) and HHW elements of the plan. In the past, CIWMB has conducted workshops to assist LTFs in accomplishing their objectives. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 161 for background information.) One such workshop was held on June 27 in Long Beach, where participants discussed the shortage of Los Angeles County landfill capacity occurring even with the implementation of CIWMB's diversion tactics. Future workshops are being planned to address the issue of siting solid waste facilities; at this writing, no information about dates for the workshops is available.

Permits. The Board has approved eight permits since its June meeting. At its September 25 meeting, the Board approved the issuance of a revised solid waste facilities permit for the Commerce Refuse-to-Energy Facility in Los Angeles County; at its August 28 meeting, CIWMB approved the issuance of a revised solid waste facilities permit for Lancaster Sanitary Landfill in Los Angeles County; at its July 18 meeting, the Board approved the issuance of new solid waste facilities permits for Glennville Transfer Station in Kern County, Ponderosa Transfer Station in Yuba County, and Lebec Interim Transfer Station in Kern County, and approved the issuance of a revised solid waste facilities permit for Browning-Ferris Industries Recycling and Transfer Station in Los Angeles County; and at its June 26 meeting, CIWMB approved the issuance of a revised solid waste facilities permit for Action Transfer Station in Los Angeles County, and a new solid waste facilities permit for Perdomo & Sons Transfer Station in Los Angeles County.

CIWMB Reviews Facilities Evaluation Reports. PRC section 43219(b) requires that, in addition to inspections conducted by local enforcement agencies (LEA), the Board shall conduct at least one annual inspection of each solid waste facility in the state. Section 43219 also states that if the Board identifies significant violations of state minimum requirements that were not identified and resolved through previous inspections by an LEA, the Board shall conduct a performance review of the LEA within 120 days, issue a written performance report within 60 days of the review, and require the submission of a plan of correction by the LEA within 90 days of the report. These steps are intended to ensure that LEAs satisfactorily perform their duties, including properly addressing the special limitations placed on older permits (those prepared prior to 1988). (See CRLR Vol. 11, No.

1 (Winter 1991) p. 121 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 170-71 for background information.)

From June through September, CIWMB reviewed facilities evaluation reports for the LEAs of Yuba, Colusa, Kings, Tuolumne, and Merced counties, each of which received a rating of "acceptable with improvement." This rating indicates that the LEAs need to achieve a higher level of performance in order to comply with CIWMB LEA certification requirements (*see supra*) by August 1, 1992. The Board also reviewed the City of Santa Clara's LEA; due to deficiencies in the LEA's performance, CIWMB will conduct a periodic review to ensure that the active facility in the LEA's jurisdiction is in compliance with all applicable laws and regulations.

At its October 30 meeting, CIWMB was scheduled to review facilities evaluations reports for the LEAs of Tehama, Napa, and Sonoma counties.

Consideration of Legislative Proposals. Executive Director Ralph Chandler recently solicited ideas for 1992 legislative proposals from Board members, advisors, executive staff, and division chiefs. The proposals were to address issues which could not be resolved by regulatory action or budget change proposals, but which require statutory changes to effectuate resolution. CIWMB's Legislation and Public Affairs Committee (LPAC) reviewed the proposals and made its recommendations at the Board's August 28 meeting. LPAC's recommended legislation includes the following:

-**Authority to Impose Administrative Fines.** Current law requires CIWMB and LEAs to enforce compliance with state solid waste laws and regulations through the state courts. This process is costly, time-consuming, and allows the environmental problems created by the noncompliance to continue in the interim. LPAC recommends that the Board seek statutory authority to impose administrative fines (such as is available to the state Water Resources Control Board and other environmental regulatory agencies) as an enforcement tool against owners and operators of solid waste facilities. The fines would be set at a level not to exceed \$10,000 for each day the violation continues.

-**Waste Tire Disposal Fee Increase.** Under current law, revenues collected from a disposal fee of 25 cents per tire are intended to fund the state's waste tire program (with 10% and 3% of the fee retained by the seller and the Board of Equalization, respectively, to cover administration costs). The disposal fee



does not adequately fund all of the activities mandated for the waste tire program in future years. In addition, many tire dealers complain about having to collect the fee, stating that they are not adequately reimbursed for their administrative costs. LPAC recommends that the disposal fee be increased to \$1 and be collected at the time of tire purchase or added to vehicle registration charges, which is a common method of collection among other states with waste tire programs.

Impact of Waste Management Mandates in Rural Jurisdictions. CIWMB reports that California's rural jurisdictions have been financially impacted by the totality of state integrated waste management mandates, as these jurisdictions generally have fewer resources to address such issues than do urban jurisdictions. Without adequate resources and assistance, some rural jurisdictions, especially those with many small landfills, may be unable to fully comply with state mandates requiring specific permitting and closure procedures. LPAC recommends that CIWMB study the cumulative impacts of solid waste management requirements on rural jurisdictions, consider reducing or modifying some requirements for rural jurisdictions, and provide financial and/or technical assistance to help rural jurisdictions comply with existing mandates.

LPAC noted that these 1992 legislative proposals require a great deal more analysis and evaluation before they are actually pursued in the next legislative session. The scope of several of the proposals may change as staff members continue to develop them over the next few months.

LEGISLATION:

SB 235 (Hart), as amended September 5, requires every rigid plastic packaging container sold or offered for sale in the state to meet specified criteria, commencing January 1, 1995; authorizes the Board to grant waivers upon specified findings; and directs the Board to adopt regulations by July 1, 1994, concerning certification of compliance with the bill's requirements. This bill was signed by the Governor on October 9 (Chapter 769, Statutes of 1991).

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at pages 161-63:

SB 960 (Hart), as amended August 20, requires CIWMB to submit recommendations to the legislature by January 1, 1993, regarding programs which are needed to encourage high levels of recycling for mixed paper waste. This bill was signed by the Governor on

October 13 (Chapter 1012, Statutes of 1991).

SB 487 (Bergeson), as amended July 10, creates the Local Government Technical Advisory Committee in CIWMB; provides that the Committee's members will be appointed by the Governor, the Senate Rules Committee, and the Speaker of the Assembly for two-year terms; specifies the duties of the Committee; and requires the Board to provide staff to assist the Committee. This bill was signed by the Governor on October 14 (Chapter 1106, Statutes of 1991).

AB 240 (Peace). As amended September 10, this bill requires, upon receipt of a request from a Native American Indian tribe which is considering a proposal to construct a hazardous waste or solid waste facility in that tribe's Indian country within the state, that the Secretary for Environmental Protection, in consultation with specified state agencies, convene negotiations for purposes of reaching a cooperative agreement which provides for regulation of the facility that is functionally equivalent to that provided under applicable state laws. This bill was signed by the Governor on October 10 (Chapter 805, Statutes of 1991).

AB 1100 (Lee), as amended August 22, requires the Board to adopt emergency regulations to administer the Used Oil Collection Demonstration Grant Program Act. This urgency bill was signed by the Governor on October 5 (Chapter 586, Statutes of 1991).

AB 1327 (Farr), as amended August 20, requires CIWMB to adopt a model ordinance for adoption by local agencies relating to adequate areas for collecting and loading recyclable materials in development projects. This bill was signed by the Governor on October 11 (Chapter 842, Statutes of 1991).

AB 1381 (Areias), as amended August 26, requires CIWMB to develop and implement a source reduction and recycling program for school districts which includes specified elements. This bill also requires the Board, after March 31, 1994, to include in a specified biennial report the status and effectiveness of the programs implemented pursuant to this bill and make recommendations on administrative and legislative changes to improve the programs' effectiveness. This bill was signed by the Governor on October 11 (Chapter 843, Statutes of 1991).

AB 1515 (Sher), as amended August 30, requires CIWMB to file an annual report with the legislature on or before March 31 of each year, and to include specified reviews and recommendations.

This bill also requires specified hearings to be conducted by a hearing panel of three persons appointed by the CIWMB chair. This bill was signed by the Governor on October 7 (Chapter 717, Statutes of 1991).

AB 1520 (Sher). Existing law requires cities and counties to divert 25% of all solid waste from landfill or transformation facilities by January 1, 1995, and, except as specified, 50% by January 1, 2000, through source reduction, recycling, and composting activities. Existing law, which will terminate October 1, 1991, defines the term "solid waste" for the purpose of determining the base amount of solid waste from which source reduction, recycling, and composting levels are calculated. As amended September 11, this bill delays until January 1, 1992, the termination date of the statutory definition of "solid waste" for this purpose. This bill was signed by the Governor on October 7 (Chapter 718, Statutes of 1991).

AB 1760 (Eastin), as amended September 11, among other things, requires CIWMB to evaluate the use of recycling residue as solid waste landfill cover materials or extenders for currently used cover material. This bill was signed by the Governor on October 11 (Chapter 849, Statutes of 1991).

AB 2076 (Sher), as amended September 9, enacts the California Oil Recycling Enhancement Act, under which, beginning October 1, 1992, every oil manufacturer will be required to pay quarterly four cents to CIWMB for each quart, or sixteen cents for each gallon, of lubricating or industrial oil sold or transferred in this state or imported into this state in that quarter, with certain exceptions. This bill was signed by the Governor on October 10 (Chapter 817, Statutes of 1991).

SB 1066 (Dills), as amended September 3, requires CIWMB to conduct a study of the feasibility of requiring that all telephone directories issued or sold in this state be made of materials which will permit the maximum volume of directories to be recycled, and requires CIWMB to adopt general guidelines regarding production of recyclable telephone directories. This bill was signed by the Governor on October 14 (Chapter 1066, Statutes of 1991).

AB 144 (Sher), as amended August 19, would have made it unlawful for any person to represent that any consumer good, or any part, ingredient, or packaging of the consumer good, which he/she manufactures or distributes is "ozone-friendly," biodegradable, photodegradable, recyclable, recycled, or compostable unless that good meets



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specified definitions established in regulations which have the full force and effect of law adopted by the U.S. Environmental Protection Agency for specified purposes. This bill was rejected by the Senate Business and Professions Committee on August 19.

SB 610 (Calderon). Under existing law, evidence of financial ability submitted to CIWMB with closure and postclosure maintenance plans is required to be in a specified form. As amended July 8, this bill would specify the permitted forms for these documents, and require that when financial assurance is provided by means of excess or surplus lines insurance, the insurer meets specified requirements. This two-year bill is pending in the Assembly Natural Resources Committee.

AB 2213 (Sher), as amended June 17, would require CIWMB to establish and assess at the first point of sale a recycling incentive fee for any material which has a scrap value less than the sum of (1) the average weighted cost to recyclers and processors of receiving, collecting, handling, processing, storing, transporting, and maintaining equipment for each type of material sold, and (2) a reasonable financial return for recyclers and processors; the bill would require the fee to be at least equal to the difference between the scrap value paid by an end user and the sum of the above. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 148 for background information on this issue.) This two-year bill is pending in the Assembly Ways and Means Committee.

AB 905 (Clute), as introduced February 28, would specify that nothing shall restrict the right to use any solid waste material found at any site to identify persons unlawfully disposing of solid waste. This two-year bill is pending in the Assembly Natural Resources Committee.

AB 2092 (Sher), as amended September 11, would extend the date by when the SRR element of a CoIWMP is required to be prepared and adopted to January 1, 1992. This bill would also extend the date by when city and county HHW elements are required to be prepared to January 1, 1992, and would specify related duties if the city or county determines that it is unable to comply with the deadline and requirements of the California Environmental Quality Act (CEQA). This two-year bill is pending in the Senate inactive file.

AB 2211 (Sher), as introduced March 8, would repeal the provisions of law which establish the State Source Reduction Program, the Recycled Market Development Commission, the Office

Paper Recovery Program, the Los Angeles County Pilot Litter Program, and the Research and Development Program; and require CIWMB, to the extent of available resources, to provide technical assistance to the public and private sector in the form of government and business waste evaluations, if requested. This two-year bill is pending in the Assembly Natural Resources Committee.

AB 1122 (Sher) and SB 51 (Torres). The Governor's Reorganization Plan No. 1 of 1991, which took effect on July 17, creates the California Environmental Protection Agency (Cal-EPA), accomplishing the original goals of these bills. (See *supra* MAJOR PROJECTS.)

AB 556 (Horcher), as introduced February 15, would require CIWMB to report to the legislature by September 1, 1991, as to whether there are any landfills operating in the state which accept ash from a transformation facility in a manner which is not consistent with their solid waste facilities permit. This two-year bill is pending in the Assembly Natural Resources Committee.

AB 1388 (Horcher), as amended July 14, would, with respect to the Puente Hills Landfill in Los Angeles County only, prohibit an LEA from approving a revision of a solid waste facilities permit for the expansion of an existing solid waste facility or transformation facility unless the city or county in which the facility is located makes a specified finding after a public hearing, noticed as prescribed, concerning the distance between the outside perimeter of the disposal area and adjacent land uses. This bill is pending in the Senate inactive file.

SB 545 (Calderon), as introduced February 28, would prohibit a city which has not complied with specified testing or planning requirements from receiving any funds from the Solid Waste Disposal Site Clean-up and Maintenance Account in the Integrated Waste Management Fund or any loan guarantees. This two-year bill is pending in the Senate Governmental Organization Committee.

SB 576 (Royce), as introduced March 4, would permit a city or county to count toward AB 939's diversion goals the total weight of any cover material, other than clean soil, which is approved by CIWMB for use, if the alternative cover material is made of recycled solid wastes or compost, and the solid wastes from which the alternative cover materials are made were normally disposed in solid waste landfills used by the city or county on January 1, 1990. This two-year bill is pend-

ing in the Senate Governmental Organization Committee.

SB 1005 (Hill), as amended April 15, would have permitted regulations adopted by CIWMB pertaining to postclosure land use to be enforced solely by the LEAs. This bill was dropped by its author.

SB 1051 (Vuich), as amended April 25, would, for the privilege of selling disposable diapers, impose an excise tax on the sale of every disposable diaper sold in this state by a distributor to a dealer. This two-year bill is pending in the Senate Revenue and Taxation Committee.

SB 1142 (Killea), as introduced March 8, would, among other things, repeal existing law which establishes the Source Reduction Advisory Committee in CIWMB and create, within the Board, an Office of Source Reduction and Office of Recycling Markets Development and Reusable Product Information Exchange, with specified duties related to waste reduction and reuse of materials. This two-year bill is pending in the Senate Governmental Organization Committee.

AB 130 (Hansen), which would require CIWMB to establish a labeling program to license the use of environmentally safe product labels, is a two-year bill pending in the Assembly Natural Resources Committee.

SB 97 (Torres), as amended July 10, would specify that "transformation," as that term is used in PRC section 41783, does not include the incineration of unprocessed municipal waste in a mass-burning facility, as specified, which begins operation after January 1, 1992. This bill passed both the Assembly and Senate; however, on September 9, the Senate refused to concur in Assembly amendments to the bill.

LITIGATION:

On August 22, State Attorney General Dan Lungren released *Opinion No. 91-501*, responding to CIWMB's request for a determination of the statutory deadline for closure of a solid waste landfill if the owner submits closure and postclosure maintenance plans that are disapproved. The opinion concludes that a solid waste landfill may only be closed after closure and postclosure maintenance plans have been approved for the site, and that no specific deadline for closure is imposed by statute when the owner does not submit approvable plans. The opinion notes that PRC section 43520 provides that the legislative purpose in requiring the preparation and implementation of closure and postclosure maintenance plans is to pro-



vide "long-term protection of air, water, and land from pollution due to the disposal of solid waste. . . ." The California Integrated Waste Management Act of 1989 sets forth specific requirements for the approval of such plans, which must be prepared by solid waste landfill owners and operators regardless of whether they have any present intentions of closing their sites.

CIWMB's request to the Attorney General was prompted by the apparent conflict between the specific requirements of the 1989 Act and Government Code section 66796.22(b)(2)(A)(ii), which provides that "[n]o person shall operate a solid waste landfill more than one year after submitting to the enforcement agency, the regional water board, and [CIWMB] a plan for the closure of the landfill and a plan for the postclosure maintenance of the landfill unless both plans have been approved, or modified and approved, by the enforcement agency, [CIWMB], and the regional board pursuant to their authority under the Water Code." The opinion determines that this provision does not establish a one-year deadline for the closure of a solid waste landfill after its closure and postclosure maintenance plans are disapproved by CIWMB. The opinion also states that section 66796.22 may be reasonably interpreted as a prohibition against receiving solid waste for disposal rather than as a mandate for closure of the site without approved closure and postclosure plans. Finally, the opinion notes that if an owner does not submit approvable plans, the Board may contract for the preparation of such plans and thereafter implement them.

RECENT MEETINGS:

In a closed meeting on June 4, the Board selected Pat Chartrand as administrative assistant to CIWMB; her duties include drafting agendas, coordinating agendas and background information packets for Board and committee meetings, and distributing agenda materials.

At its September 25 meeting, the Board approved a policy for compliance with the ex parte communication disclosure requirements of PRC section 40412. The adopted policy is intended to enable Board members to recognize which communications must be disclosed. Among other things, the policy states that communications which are designed to influence a Board member's vote about a matter which is subject to a roll-call vote by CIWMB must be disclosed.

At its September 25 meeting, the Board agreed to enter into an interagency

agreement with the Department of Finance (DOF), in accordance with Governor Wilson's decision to reduce DOF's share of the cost of contracting for lobbyist representation in Washington, D.C. by having individual agencies contribute larger shares. The contract requires the Board to provide an amount not to exceed \$14,000.

Also at its September 25 meeting, the Board approved the Administration Committee's contract for support services for upcoming discussions regarding the advance disposal fee (ADF) proposal currently before the legislature (AB 2213) (*see supra* LEGISLATION). The contract was awarded to Resource Integration Systems, Ltd. (RIS) to provide technically experienced representation at the meetings and to enable the Board to effectively analyze and react to ideas and proposals generated in the discussions, which will include other interested parties such as the California Manufacturers Association. Although the Board approved the contract, it expressed concern over RIS' \$200 per hour charge and recommended that the staff be prepared to use in-house personnel at similar future meetings.

FUTURE MEETINGS:

January 28 in Redding.
February 26 in Monterey.
March 25 in Sacramento.
April 23 in Oakland.

DEPARTMENT OF PESTICIDE REGULATION

Interim Director: James Wells
(916) 654-0551

The California Department of Food and Agriculture's Division of Pest Management officially became the Department of Pesticide Regulation (DPR) within the California Environmental Protection Agency (Cal-EPA) on July 17, 1991. DPR's enabling statute appears at Food and Agricultural Code section 11401 *et seq.*; its regulations are codified in Titles 3 and 26 of the California Code of Regulations (CCR).

With the creation of Cal-EPA, all jurisdiction over pesticide regulation and registration was removed from CDFA and transferred to DPR. Pest eradication activities (including aerial malathion spraying, quarantines, and other methods of eliminating and/or preventing pest infestations) remains with CDFA. The important statutes which DPR is now responsible for implementing and administering include the Birth Defect Prevention Act (Food and Agricultural Code section 13121 *et seq.*),

the Pesticide Contamination Prevention Act (section 13141 *et seq.*), and laws relating to pesticide residue monitoring (section 12501 *et seq.*), registration of economic poisons (section 12811 *et seq.*), assessments against pesticide registrants (section 12841 *et seq.*), pesticide labeling (section 12851 *et seq.*), worker safety (section 12980 *et seq.*), restricted materials (section 14001 *et seq.*), and qualified pesticide applicator certificates (section 14151 *et seq.*).

DPR includes the following branches:

1. The Pesticide Registration Branch is responsible for product registration and coordination of the required evaluation process among other DPR branches and state agencies.

2. The Medical Toxicology Branch reviews toxicology studies and prepares risk assessments. Data are reviewed for chronic and acute health effects for new active ingredients, label amendments on currently registered products which include major new uses, and for reevaluation of currently registered active ingredients. The results of these reviews, as well as exposure information from other DPR branches, are used in the conduct of health risk characterizations.

3. The Worker Health and Safety Branch evaluates potential workplace hazards resulting from pesticides. It is responsible for evaluating exposure studies on active and inert ingredients in pesticide products and on application methodologies. It also evaluates and recommends measures designed to provide a safer environment for workers who handle or are exposed to pesticides.

4. The Environmental Monitoring and Pest Management Branch monitors the environmental fate of pesticides, and identifies, analyzes, and recommends chemical, cultural, and biological alternatives for managing pests.

5. The Pesticide Use and Enforcement Branch enforces state and federal laws and regulations pertaining to the proper and safe use of pesticides. It oversees the licensing and certification of dealers and pest control operators and applicators. It is responsible for conducting pesticide incident investigations, administering the state pesticide residue monitoring program, monitoring pesticide product quality, and coordinating pesticide use reporting.

6. The Information Services Branch provides support services to DPR's programs, including overall coordination, evaluation, and implementation of data processing needs and activities.

Also included in DPR is the Agricultural Pest Control Advisory Committee, established in Food and Agricultural